

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

BILL L. WILMOTH, III,

Defendant.

No. 09-30049-DRH

MEMORANDUM and ORDER

HERNDON, Chief Judge:

Now before the Court is Wilmoth's motion and affidavit to proceed on appeal in forma pauperis (Doc. 43). Based on the following, the Court denies as moot the motion to proceed in forma pauperis.

The Court finds the motion to proceed in forma pauperis moot. Wilmoth does not need the Court's permission to proceed on appeal in forma pauperis in his criminal case as the Court determined at the trial level that he was financially unable to obtain adequate defense, *see* Doc. 8, although he eventually did retain private counsel. "A party ... who was determined to be financially unable to obtain an adequate defense in a criminal case ... may proceed on appeal without further authorization" unless the district court certifies that the appeal is not taken in good faith, finds that the party is not entitled or a statute provides otherwise. **FED.R.APP.P 24(a)(3)**. The Court has not and will not certify that Wilmoth should not be allowed to continue as a pauper and no statute forbids it. Therefore, Wilmoth

already has the authority he needs. Thus, the Court **DENIES as moot** the motion for leave to proceed in forma pauperis (Doc. 43).

IT IS SO ORDERED.

Signed this 29th day of June, 2010.

/s/ David R. Herndon

**Chief Judge
United States District Court**